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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/385,671	08/27/1999	CHARLES ERIC HUNTER	**OO-0097	9516

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EXAMINER	
STRANGE, AARON N	

ART UNIT	PAPER NUMBER
2153	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/385,671	Applicant(s) HUNTER, CHARLES ERIC	
	Examiner Aaron Strange	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71, 72, 77, 78, 83, 84 and 88-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71, 72, 77, 78, 83, 84 and 88-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20071001</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's amendments are sufficient to overcome the rejection of claims 68-90 under 35 U.S.C. § 112, first paragraph and the objections to the specification under 35 U.S.C. § 132(a). Accordingly, the rejection and objection have been withdrawn.
2. Applicant's arguments with respect to claims 71, 72, 77, 78, 83, 84 and 88-90 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 71, 72, 77, 78, 83, 84 and 88-94 rejected under 35 U.S.C. 103(a) as being unpatentable over Walters et al. (US 5,440,334) in view of Banker et al. (US 6,005,938) further in view of Gilhousen et al. (US 4,613,901).
5. With regard to claim 71, Walters discloses a method comprising:

transmitting, without consumer selection or using individual consumer preference information and in compressed time format, a plurality of video programs to a plurality of

consumer locations (programs are transmitted to all subscriber locations in time compressed format)(col. 3, ll. 13-24);

billing a consumer associated with a consumer location within the plurality of consumer locations in response to receiving information indicating that a video program from the plurality of transmitted video programs has been selected for viewing (consumer is billed for selected programs) (col. 12, ll. 8-12, 21-30), wherein at least a portion of the video program has been automatically stored at the consumer location in response to content preselection (ordered programs are automatically captured and stored for viewing)(col. 11, ll. 44-49; col. 12, ll. 6-8).

Walters fails to specifically disclose that the transmitted video programs are encoded with time-based code keys A correlated with periodic time-based code keys B that are blanket transmitted to the plurality of consumer locations and time-based code keys C that are provided to consumer locations within the plurality of consumer locations that are in good standing, wherein a consumer can only view a video program if all three code keys have been received.

Banker discloses a similar system for distributing digital information to consumer locations via a network (col. 1, ll. 10-17). Banker teaches encoding video programs with time-based code keys A (time-based instance keys used for decoding program are transmitted in ECMs with the program)(col. 5, ll. 40-52; col. 6, l. 63 to col. 7, l. 8) that are correlated with time-based code keys C (session keys) that are provided to consumer locations within the plurality of consumer locations that are in good standing (session keys are provided as part of DEMM, and are time limited by information in AEMM)(col.

4, ll. 8-14, ll. 37-53) (See also col. 1, ll. 51-59). Use of these keys would have been an advantageous addition to the system disclosed by Walters since they would have prevented content from being viewed by consumers who have not paid for it.

Gilhousen discloses a similar system for distributing video programs to subscribers and protecting the programs from unauthorized viewing (col. 1, ll. 17-20). Gilhousen teaches blanket transmitting a periodic time-based code key B (channel key) (col. 22, ll. 18-21) to all consumer locations within a particular category, such as class or service or type of customer (col. 21, ll. 43-44). Gilhousen further discloses that these keys are correlated with keys used to encode the transmitted programs (channel key is needed to produce working keys needed to decode the program)(col. 20, ll. 55-67). Using a blanket transmitted key correlated with the keys used to encode the transmitted programs would have been an advantageous addition to the system taught by Walters and Banker since it would have allowed scrambling/encryption of video programs to be enabled/disabled on a channel by channel and program by program basis rather than a user by user basis (Gilhousen; col. 22, ll. 24-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use time-based keys as taught by Banker and Gilhousen to protect the transmitted video content from unauthorized viewing by parties that did not pay for the content, while retaining the ability to permit a program to be viewed by all subscribers without communicating directly with each individual subscriber.

6. With regard to claim 72, Walters further discloses receiving video program playback information from a consumer location at a central controller system periodically (i.e., monthly billing information) (col. 12, ll. 21-29). Banker discloses that the time-based code keys C are provided to the consumer location periodically (col. 1, ll. 57-59). The combined teachings of Walters and Banker would have taught or reasonably suggested to one of ordinary skill in the art to collect the billing information at the same time as the time-based code keys C are collected, since this would have allowed the system to bill the consumer when the keys are updated, to ensure that the consumer's account remains in good standing.

7. Claims 77, 78, 88 and 89 are rejected under the same rationale as claims 71 and 72, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

8. With regard to claim 90, Walters further discloses that the mechanism configured to transmit a plurality of video programs is configured to transmit by direct broadcast satellite transmission on multiple channels in compressed time format (col.3, ll. 41-45).

9. Claims 83, 84 and 91-94 are rejected under the same rationale as claims 71, 72, 88 and 89, since they recite substantially identical subject matter. These claims are directed to a method/apparatus for receiving the programs transmitted using the

method/system of claims 71 and 72. All limitations are taught at the locations cited with regard to claims 71 and 72.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS
12/17/07



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